

HOUSE BILL 2954  
By Scroggs

AN ACT to amend Tennessee Code Annotated, Title 37; Title 40 and Title 49, to enact the "Juvenile Justice and Truancy Reform Act of 2000."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-101, is amended by deleting the entire section and by substituting instead the following:

(a) This chapter shall apply to youths as defined in § 37-1-102, who, by their circumstance or action, are accused of violating the laws of this State and may be found to be in need of treatment and rehabilitation or punishment. Because this system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community, the General Assembly declares that the purposes of this title are:

(1) To impose on a youth a sense of responsibility for his or her own acts and to hold a youth accountable for his or her unacceptable behavior;

(2) To invoke the participation of a youth's parent or legal guardian in assisting a youth to recognize and accept responsibility for his or her act and to hold the parent or legal guardian accountable, where appropriate, through the

payment of detention costs and restitution to victims and through attendance at programs for treatment, training and the development of positive parenting skills designed to promote a functional relationship between a youth and his or her family;

(3) To protect the public from the consequences of unacceptable behavior and to provide programs to increase public responsibility and participation in developing an effective youth treatment system designed to aid in reducing the unacceptable behavior of a youth in this State;

(4) To remove a youth from the custody of his or her parents when it is judicially determined to be in his or her best interest or for the safety and protection of the public and to preserve and strengthen the youth's family whenever possible, including improvement of home environment; and

(5) To promote a continuum of services for a youth and his or her family that emphasize prevention of further unacceptable behavior by the use of early intervention, swift and decisive adjudication, reformation and rehabilitation programs, and post-release services to a youth who is returned to his or her family and community.

(b) This chapter shall strive to provide every youth with services necessary for his or her proper development, including, but not limited to, health, social services, and training and life skills, including primary, secondary and career education. Additionally, a youth is also guaranteed prompt and fair hearings, sentencing, disposition, and placement that shall be applied within the full framework of constitutional standards of fundamental fairness and due process afforded under the United States and Tennessee Constitutions by a court of record. Unless otherwise provided, such protections belong to the youth individually and may not be waived by any other party.

(c) This system shall be open and accountable to the people of Tennessee and their elected representatives with programs, policies and services regularly and independently audited as to their effectiveness in providing public safety and preventing a youth's return to behavior found to be unacceptable.

(d) This chapter shall be strictly construed in order to promulgate youth laws which are uniform in application across the state, and, in the event of an ambiguity or omission, this Chapter shall be compatible with the Tennessee Criminal Code and Tennessee Rules of Evidence, ensuring the protections contained therein.

(e) Each of the juvenile courts in all the counties and municipalities of the state as described in § 37-1-102 have all of the jurisdiction, authority, rights, powers and duties prescribed by the provisions of this part, and any additional jurisdiction, authority, rights, powers or duties conferred by special or private act upon any of the juvenile courts in the state are not intended to be invalidated or repealed by this part except where inconsistent or in conflict with any provisions of this part.

SECTION 2. Tennessee Code Annotated, Section 37-1-102, is amended by deleting subdivision (b)(3) and by substituting instead the following:

(3) "Adult" means any person fifteen (15) years of age or older charged with:

(A) First Degree Murder; Attempted First Degree Murder; Second Degree Murder; Attempted Second Degree Murder; or

(B) Aggravated Rape; Especially Aggravated Robbery; Aggravated Robbery; Especially Aggravated Kidnapping; Aggravated Kidnapping.

SECTION 3. Tennessee Code Annotated, Section 37-1-102, is further amended by adding the following as subitem (b)(4)(B), and by renumbering the remaining subitems accordingly:

(B) A person under fifteen (15) years of age charged with First Degree Murder; Attempted First Degree Murder; Second Degree Murder; Attempted Second Degree

Murder; Aggravated Rape; Especially Aggravated Robbery; Aggravated Robbery;  
Especially Aggravated Kidnapping; Aggravated Kidnapping; or

SECTION 4. Tennessee Code Annotated, Section 37-1-102(b), is further amended by  
adding the following:

(24) A "Citation" means a written order issued by the officer requiring the juvenile  
to appear in court or at a governmental office at a designated time.

(25) A "Judicial Officer" is a judge or referee who is a member of the bar.

(26) A "Victim Impact Statement" means a written statement submitted by the  
victim to the court stating the effect the crime has had on the victim and the family which  
may be submitted as part of the record at the sentencing hearing and read into the  
record. Nothing shall preclude the victim from testifying.

SECTION 5. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by  
adding the following as a new, appropriately numbered section:

Section \_\_\_\_\_. Youthful Offender, Serious Youthful Offender, Aggravated Youthful  
Offender, Especially Aggravated Youthful Offender

As used in this chapter, unless the context otherwise requires:

(a) "Youthful Offender" means a juvenile who is alleged or adjudicated to  
have committed an offense that would be a Class B or Class C misdemeanor if  
committed by an adult.

(b) "Serious Youthful Offender" means a juvenile who is alleged or  
adjudicated to have committed an offense that would be a Class A misdemeanor  
or a Class D or Class E felony if committed by an adult, or violation or revocation  
of probation or aftercare, or possession of a firearm as defined in § 39-17-1319.

(c) "Aggravated Youthful Offender" means a juvenile who is alleged or  
adjudicated to have committed an offense that would be a Class A, Class B, or  
Class C felony or first degree murder.

(d) "Especially Aggravated Offender" means a juvenile who:

(1) meets the eligibility criteria set forth in § 37-1-134(1); or

(2) is charged with a felony; and

(3) has previously been in the custody of the Department of

Children Services pursuant to a delinquency adjudication.

SECTION 6. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new, appropriately numbered section:

Section \_\_\_\_\_. Court of Record -- All juvenile court hearings shall be on the record.

The juvenile judge shall be responsible for ensuring that all juvenile court hearings are on the record, and may delegate duties to the clerk of the court. The court may use audio tape.

SECTION 7. Tennessee Code Annotated, Section 37-1-104, is amended by adding the language "circuit, and chancery courts" after the words "the probate" and before the words "court of" in the first sentence of subsection (a).

SECTION 8. Tennessee Code Annotated, Section 37-1-110, is amended by deleting that section in its entirety and by substituting instead the following:

37-1-110 Informal Diversion.

(a) Youthful offenders and serious youthful offenders, only, may participate in informal diversion.

(b) Before or after a petition is filed, a person designated by the court pursuant to judicial guidelines, may suspend prosecution and grant informal diversion, subject to appropriate conditions, if:

(1) The juvenile after consulting with the juvenile's parent, guardian, other custodian or attorney, voluntarily agrees to stipulate to the facts in order to bring the case within the jurisdiction of the court and consents to the informal diversion;

(2) Disposition without adjudication would be in the best interest of the public and the juvenile; and

(3) The juvenile, after consulting with his or her parent, guardian, other custodian, or attorney, consents with knowledge that consent is not obligatory.

(c) The person designated by the court may also consult with the victim regarding the propriety and conditions of the informal diversion.

(d) Informal diversion disposition shall not extend beyond one hundred and eighty (180) days from the day commenced unless extended by the court. An informal diversion disposition does not authorize the detention of the juvenile if not otherwise permitted by this part.

(e) Prior to expiration of the diversion period, the court staff shall assess completion of the informal diversion requirements. Upon a determination of completion, the file shall be dismissed and expunged. If completion has not occurred, the court shall conduct a second assessment within a reasonable period, not to exceed ten (10) days.

(f) If, prior to discharge by the court or expiration of the informal diversion, a new delinquent or unruly petition is filed against the juvenile, or the juvenile otherwise fails to fulfill express terms and conditions of the informal diversion requirements, the petition under which the juvenile was continued under supervision may be reinstated or the designated court officer may terminate the diversion and file a petition and the case may proceed to adjudication just as if the informal diversion had never been entered.

(g) The facts to which the juvenile has stipulated shall not be used against the juvenile in any proceeding.

(h) No juvenile who has been the subject of two (2) or more previous informal adjustments or convicted of criminal offenses other than Class B or Class C misdemeanors shall be eligible for the informal diversion allowed hereunder without written notice to the district attorney general.

SECTION 9. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately numbered section:

Section \_\_\_\_\_. Diversion.

(a) Youthful offenders, serious youthful offenders, and aggravated youthful offenders may participate in diversion unless the offense in question is:

- (1) A Class A felony,
- (2) A Class B felony,
- (3) Driving under the influence of an intoxicant, as prohibited by Section 55-10-401,
- (4) Vehicular assault, as prohibited by Section 39-13-106, or
- (5) Any felony sex offense.

(b) After a petition is filed, a judge or referee may suspend prosecution and grant a diversion, subject to the appropriate conditions if:

- (1) The juvenile agrees to stipulate to the facts in order to bring the case within the jurisdiction of the court;
- (2) Disposition without an adjudication would be in the best interest of the public and the juvenile; and
- (3) The juvenile, after consulting with his or her parent, guardian, other custodian, or attorney consents with knowledge that consent is not obligatory.

(c) The person designated by the court may also consult with the victim regarding the propriety and conditions of the diversion.

(d) The disposition cannot extend beyond one year from the day commenced unless otherwise permitted by this part.

(e) Prior to expiration of the diversion period, the court staff shall assess completion of the diversion requirements. Upon a determination of completion, the file

shall be dismissed. If completion has not occurred, the court shall conduct a second assessment within a reasonable period, not to exceed ten (10) days.

(f) If prior to discharge by the court or expiration of the diversion period, a new delinquent or unruly petition is filed against the juvenile, or the juvenile otherwise fails to fulfill express terms and conditions of the diversion agreement, the petition under which the juvenile was continued under supervision may be reinstated and the case may proceed to adjudication just as if the agreement had never been entered. If failure to comply with the pretrial diversion agreement is alleged, the juvenile shall be given written notice of the alleged violation and an opportunity to be heard on that issue, prior to the reinstatement of proceedings under the original charge.

(g) The juvenile's stipulation to the facts shall not be used against the juvenile in any proceeding.

SECTION 10. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new appropriately numbered section:

Section \_\_\_\_\_. Judicial Diversion.

(a) All juveniles are eligible for judicial diversion unless the offense in question is a Class A felony.

(b) To be eligible, the juvenile shall enter a suspended guilty plea. The judge may place the juvenile on community based probation when the juvenile is found delinquent or enters a conditional plea. When the community-based probation is completed, the juvenile's record shall be expunged as provided by law.

(c) Upon violation of a condition of the probation, the court may enter an adjudication of delinquency and proceed as otherwise provided.

(d) Non-public records of this proceeding shall be retained solely for the purpose of use in determining whether or not, in subsequent proceedings, such



juvenile qualifies for judicial diversion. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

SECTION 11. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately numbered section:

Section \_\_\_\_\_. Citation and release by a law enforcement officer.

(a) A law enforcement officer who has taken a juvenile into custody for the commission of an offense, or an offense under this chapter that would not be a crime if committed by an adult, may:

(1) Release the juvenile to the custody of that juvenile's parent, guardian, or legal custodian in lieu of the continued custody of such juvenile; and/or

(2) Subject to the exceptions listed in (b), issue a citation to such person to appear in court in lieu of the continued custody of the juvenile and in lieu of taking the juvenile before an official for offender review.

(b) No citation shall be issued under the provisions of this section if:

(1) The juvenile requires medical examination or medical care and no parent, guardian, or legal custodian is available to ensure necessary medical attention and safety;

(2) The juvenile is unable to care for the juvenile's own safety;

(3) There is a reasonable likelihood that the offense would continue or resume;

(4) There is a reasonable likelihood that persons or property would be endangered by the juvenile;

(5) The juvenile cannot or will not offer satisfactory evidence of identification;

- (6) A reasonable likelihood exists that the juvenile will fail to appear in court;
- (7) The juvenile is in illegal possession of a firearm;
- (8) The juvenile is intoxicated; or
- (9) There is an outstanding arrest warrant or attachment for the juvenile.

(c)(1) The citation shall contain:

- (A) Signature of the juvenile;
- (B) Address of the parent, guardian, or legal custodian of the juvenile; and
- (C) In large, conspicuous block letters the following:

NOTICE: FAILURE TO APPEAR IN COURT ON THE  
DATE ASSIGNED BY THIS CITATION OR AT THE  
APPROPRIATE GOVERNMENT OFFICE FOR PROCESSING  
MAY RESULT IN YOU BEING TAKEN INTO CUSTODY AND/OR  
BEING CHARGED WITH A SEPARATE, ADDITIONAL  
OFFENSE.

(2) The juvenile shall provide the name and address of the juvenile's parent, guardian, or legal custodian.

(3) The officer shall:

- (A) Provide a copy of the citation to the juvenile, and
- (B) Cause a copy of the citation to be sent to:
  - (i) the address of the parent, guardian, or legal custodian as shown on the citation; and
  - (ii) the local juvenile court.

SECTION 12. This act shall take effect July 1, 2001, the public welfare requiring it.

